

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION, CLEVELAND**

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|----------------------------|---|-----------------------------------|
| FAMOUS DISTRIBUTION, INC., | : | Case No: |
| | : | |
| Plaintiff, | : | Judge |
| | : | |
| v. | : | LIBERTY MUTUAL INSURANCE |
| | : | COMPANY AND LIBERTY MUTUAL |
| | : | GROUP'S NOTICE OF REMOVAL |
| | : | |
| LIBERTY MUTUAL INSURANCE | : | |
| COMPANY, et al., | : | |
| | : | |
| Defendants. | : | |
| | : | |

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Liberty Mutual Insurance Company and Liberty Mutual Group, Inc., (collectively, "Liberty") file a Notice of Removal on these grounds:

1. On or about April 18, 2022, Plaintiff Famous Distribution, Inc. ("Plaintiff"), filed a Complaint in the Cuyahoga County Court of Common Pleas titled Famous Distribution, Inc. v. Liberty Mutual Insurance Company, et al., Case No. CV 22 962182.
2. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings, and orders to date in this action are attached as Exhibit A.
3. Pursuant to 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely because a copy of the Complaint in this action was provided to Statutory Agent Corporation Service Company on April 26, 2022, which is less than thirty days from today's date. This was Liberty's first receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.
4. Sufficiency of process and service of process is not waived by Liberty.
5. Pursuant to 28 U.S.C. § 1441(a), this civil action is removeable because this Court has original jurisdiction under 28 U.S.C. § 1332.
6. Pursuant to 28 U.S.C. § 1332(a)(1), the Complaint in this action pleads that Plaintiff is an Ohio corporation and with an Ohio principal place of business for purposes of diversity of citizenship. See Complaint at ¶2.

7. Pursuant to 28 U.S.C. §1332(a)(1), the Complaint in this action pleads that Liberty is Massachusetts corporations with a Massachusetts principal places of business for purposes of diversity of citizenship, which is correct. See Id. at ¶¶3-4.
8. Pursuant to 28 U.S.C. §1332(a), the amount in controversy exceeds \$75,000.00 exclusive of interest or costs because Plaintiff has pleaded six counts against Liberty, with four counts stating damages “in an amount to be proven at trial in excess of \$25,000”. See Id. at ¶78.
 - a. Plaintiff Famous Distribution, Inc. pleads that Liberty owes defense costs and possible indemnity arising from an underlying asbestos personal injury claim which involves a plaintiff who has been diagnosed with lung cancer, a bodily injury for which that underlying plaintiff has or will seek recovery in excess of \$75,000.00 exclusive of interest or costs.
 - b. Plaintiff Famous Distribution, Inc. alleges that Liberty must defend and indemnify it under insurance policies from June 30, 1985 to June 30, 1993 which individually or collectively have limits in excess of \$75,000.00 exclusive of interest or costs.
 - c. The amount in controversy for the lung cancer claim exceeds \$75,000.00 exclusive of interest or costs, including both the defense costs and indemnity Famous Distribution, Inc. seeks in the present case.
9. Pursuant to 28 U.S.C. §1446(b)(2)(A), there are no other defendants to join in this Notice of Removal.
10. Pursuant to 28 U.S.C. §115(a)(1), removal is proper to the Federal Court for the Northern District of Ohio because this case was filed in Cuyahoga County, Ohio.
11. Pursuant to N.D. Ohio L.R. 3.8(a), venue in Cleveland, Ohio in the Eastern Division of the Federal Court for the Northern District of Ohio is proper because this case was filed in Cuyahoga County, Ohio.
12. Liberty will give written notice of filing of this Notice of Removal to all parties as required by 28 U.S.C. § 1446(d) and will file a copy of this Notice of Removal with the Clerk of the Cuyahoga County Ohio Common Pleas Court.

WHEREFORE, Liberty prays that this cause be removed from the Cuyahoga County Court of Common Pleas to this Court, the United States District Court, Northern District of Ohio, Eastern Division, for trial and determination.

Respectfully Submitted,

s/ David W. Walulik

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CERTIFICATE OF SERVICE

This is to certify that on May 20, 2022, a true and correct copy of the foregoing was served upon the following electronically and also by United States Mail:

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s/ David W. Walulik
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